

August 27, 1999

RECEIVED**AUG 27 1999****FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
TW-A325
Washington, D.C. 20554

Re: Promotion of Competitive Networks in Local Telecommunications Markets,
WT Docket No. 99-217; Implementation of the Local Competition
Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98

Dear Ms. Salas:

These comments are submitted on behalf of Equity Office Properties Trust in response to the FCC's July 7, 1999 Notice of Proposed Rulemaking regarding efforts to foster competition in local telecommunications markets, and in particular, concerning certain steps entailing forced access by telecommunications service providers into privately owned buildings. Kindly have these remarks entered into the record of the above-captioned matter.

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Equity Office Properties Trust is the nation's largest publicly held owner and manager of office properties, with a portfolio of 285 buildings comprising approximately 76 million square feet of rentable area in 23 states and the District of Columbia, including 35 metropolitan areas and 80 submarkets. As Executive Vice President-Chief Operating Officer and Vice President-Telecommunications for Equity Office, we write to oppose "forced access" or "non-discriminatory access" measures under consideration by the Commission that would enable major telecommunications companies to enter upon private property without the consent of owners (or otherwise upon terms not negotiated and agreed to by owners).

Equity Office joins vigorously in the objections to such measures articulated in the Joint Comments of the Real Access Alliance. In our view, the proposals urged upon the Commission by the telecommunications industry overlook the legal limits of the Commission's authority, ignore the Constitutional property rights of owners, and misapprehend the current realities of the telecommunications/real estate access marketplace.

Equity Office urges the Commission to consider carefully the legal and Constitutional implications of forced access outlined in our industry's Joint Comments. To supplement the Real Access Alliance's Joint Comments, however, Equity Office submits this letter separately in order to provide information to the Commission about the realities of the telecommunications/real estate access marketplace as our company has experienced it, and to specifically describe the manner in which Equity Office has historically sought and promoted access for its tenants to the benefits of a competitive telecommunications landscape – all as envisioned by the Telecommunications Act of 1996. We believe that Equity Office's real-world experience exemplifies exactly why and how owners perform a critical, direct and positive role in extending the benefits of competition embodied in the 1996 Act by improving the penetration of telecommunications to even the smallest business consumers on a non-discriminatory basis. The positive role performed by building owners should not be surprising, as owners operating in the unregulated free market have compelling incentives to promote competitive access for tenants to telecommunications. To attract and retain tenants, owners like Equity Office must provide the best telecommunications service options available. For the reasons outlined below, these incentives should not be neutralized through forced or non-discriminatory access measures that would impair or eliminate building owners' ability to participate in the negotiation and delivery of telecommunications service.

Telecommunications Providers Do Not Proactively Commit to Serve All of Our Buildings and Tenants

Telecommunications providers have demonstrated a lack of willingness to proactively commit to making their services available to all our buildings and tenants in our portfolio. In fact, despite the overall attractiveness of our national portfolio to many telecommunications providers, no one provider

has yet committed to serve all of our properties. Instead, we have observed that telecommunications providers, when given free rein, focus on and seek access selectively to our largest properties in the largest markets, take on some additional mid-size properties in these markets, and then agree to serve only a sampling of properties in other markets. And, even within those subsets of our portfolio for which access agreements are finalized with providers, we have observed delays and reluctance to complete the installation of facilities and to wire smaller tenants. This, in turn, has placed added responsibilities on Equity Office to manage the implementation of these services in order to maximize both their availability and the speed with which they are offered to our tenants.

Equity Office Proactively Seeks to Ensure All Our Tenants Benefit from the 1996 Act

Needless to say, the selective and discriminatory focus of providers is squarely at odds with our strategy for attracting and retaining tenants through broad availability of telecommunications service. The lack of commitment on the part of telecommunications providers to serve certain buildings and tenants led Equity Office to create a telecommunications group, and to task that group to go into the marketplace and establish -- through non-discriminatory, non-exclusive arrangements -- a complex series of business relationships with telecommunications vendors to ensure our tenants can have access to the critical services they need. We adopted this initiative in 1994, and have since expanded this group to five full-time professionals dedicated to seeking ways to deliver the benefits of the 1996 Act to our tenants. Specifically, the Equity Office telecommunications staff fields calls from telecommunications vendors, educates our property management and leasing teams on how to work with multiple telecommunications vendors at each property, works with our tenants to understand their specific telecommunications needs, travels to our properties to accompany telecommunications providers on walkthroughs, and otherwise works to expedite the process of identifying space, reviewing and approving plans, and installing equipment. Our telecommunications group also communicates continually with providers to understand new or evolving approaches to expand telecommunications choice within our portfolio.

We dedicate these resources out of a desire to enhance Equity Office's standing in the marketplace as an office real estate service provider and out of a concern that our tenants will relocate to other properties if we can not provide office environments that meet their critical telecommunications needs. Furthermore, the availability of a wide range of telecommunications services has proven to be such an important factor in our tenants' decisions on where to office that we spent nearly eighteen months and enormous human and capital resources to secure, in January, 1999, a Private Letter Ruling from the Internal Revenue Service to specifically clarify our ability as a real estate investment trust to participate in the process of ensuring that our tenants have access to the choices in telecommunications services that they insist upon.

A central part of the Equity Office telecommunication group's approach has been to ask providers in the negotiation process (which the telecommunications industry now asks the Commission to effectively eliminate through forced access) to commit to serve a given number of our properties by a given date certain. Typically, this results in a provider agreeing to serve a minimum of 50 to 100 of our 285 properties. This practice represents a significant improvement over the traditional scenario in which telecommunications providers sought access to buildings individually, which resulted in only our largest and best located properties being served by telecommunications providers. Still, this approach of setting a minimum requirement of buildings to access leaves many buildings and tenants unserved by any one particular provider. As a result, we must (and do) then solicit relationships with still other telecommunications vendors to address the needs of the remaining buildings and tenants.

Most recently, a new class of start-up telecommunications providers -- "building centric providers" -- has evolved around the concept of pre-installing wiring for an entire building, thereby reducing the cost of serving the smaller tenants, and enabling all tenants in a building to have equal access to the fastest connections and latest technologies (and on an expedited timeframe because the system is pre-installed in the building). In addition, these providers are offering to serve much larger portions of our portfolio than traditional telecommunications providers. We have worked, and will continue to work, with these building centric providers on a non-exclusive, non-discriminatory basis (as we do with all telecom providers) as we believe this new group of providers represents yet another

meaningful strategy for us to use in achieving our goal of providing access for our tenants (large *or* small) to a broad range of telecommunications services.

In sum, because telecom providers have not demonstrated a willingness to proactively deliver the benefits of the 1996 Act to our customers, we assumed that responsibility. We dedicated resources to deciphering the complex telecommunications landscape, and have proactively established a series of non-exclusive business relationships with telecommunications providers to address the telecommunications needs of our portfolio of tenants and buildings. In so doing, we have made access to telecommunications a hallmark of our real estate service offering to our tenants. None of this would have been possible without our direct, proactive involvement.

Building Owners are Uniquely Incentivized and Well-Positioned to Promote Non-Discriminatory Provision of Service

As the Commission is well aware, Congress' intent in enacting the Telecommunications Act of 1996 was to promote a "pro-competitive, de-regulatory . . . framework" that will accelerate the "deployment of advanced telecommunications and information technologies and services to *all* Americans" *S. Conf. Rep. No. 104-230, 104th Cong., 2d Sess. at 1 (1996) (emphasis added)*. Equity Office believes that its own experiences demonstrate that building owners are key participants in ensuring that advanced telecommunications are made swiftly and widely available in the manner Congress intends, rather than discriminatorily provided when and to whom the telecommunications providers deem financially optimal. Specifically in the case of Equity Office, over 70% of our tenants are small users of office space (occupying less than 10,000 square feet of office space); hence, we are strongly incentivized to secure any and all services necessary to keeping them as tenants in our buildings. This is why we have chosen a proactive approach to telecommunications, and have made our strategy of facilitating and expediting access of telecommunications providers to our buildings a high-profile selling point for us in the marketplace. To this end, Equity Office will continue to devote significant resources to proactively procuring telecommunications services for our tenants, from as many carriers as possible, and on a consistently non-discriminatory basis.

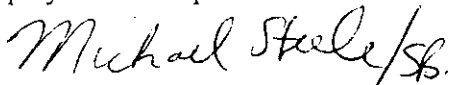
It is the owners, after all, who stand to gain when telecommunications service is made available to tenants throughout their buildings – including smaller tenants that would not otherwise attract telecommunications providers. Telecommunications providers, by contrast, are incentivized to – and in our experience do – pursue opportunities to serve only a selective fraction of the potential consumers of their services. Because the interests of building owners provide a needed check upon the discriminatory practices of providers, the regulatory interference sought by the telecommunications industry is not only unnecessary, but also at odds with the policy goals of the 1996 Act. Further, in proactive ways such as those we have described above, the incentive for owners like Equity Office to enhance the appeal of our buildings in the marketplace translates into market forces driving the penetration of telecommunications services to a greater spectrum of consumers – all in furtherance, we believe, of the objectives of the 1996 Act.

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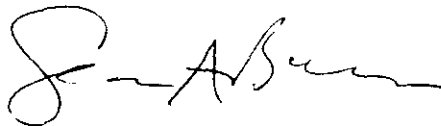
In conclusion, we respectfully urge the Commission to recognize and consider in its deliberations the critical role of building owners in promoting the delivery of advance telecommunications options to the fullest spectrum of consumers. An FCC-mandated forced or nondiscriminatory access regime would undermine our ability to promote this end through proactive procurement of service and participation in the negotiation process, and should be rejected. Thank you for your attention to our concerns.

Respectfully submitted,

Equity Office Properties Trust

Handwritten signature of Michael Steele in black ink.

Michael Steele
Executive Vice President
and Chief Operating Officer

Handwritten signature of Sean Burns in black ink.

Sean Burns
Vice President
Telecommunications